

**Franchise Tax Board****ANALYSIS OF ORIGINAL BILL**

Author: Aanestad Analyst: Jennifer Bettencourt Bill Number: SBX1 8  
Related Bills: See Legislative History Telephone: 845-5163 Introduced Date: October 11, 2007  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Physicians Uncompensated Medical Care Credit

**SUMMARY**

This bill would allow a tax credit to physicians who provide uncompensated medical care.

**PURPOSE OF THE BILL**

It appears the purpose of this bill is to encourage physicians to provide health care to the uninsured so that all Californians have the opportunity to receive health care.

**EFFECTIVE/OPERATIVE DATE**

As a tax levy, this bill would be effective immediately upon enactment and operative for taxable years beginning on or after January 1 of the year of enactment.

**POSITION**

Pending.

**ANALYSIS****FEDERAL/STATE LAW**

Current federal and state laws generally allow taxpayers engaged in a trade or business to deduct all expenses that are considered ordinary and necessary in conducting that trade or business.

Current federal and state laws also provide various tax credits designed to provide a tax incentive to taxpayers that incur certain expenses (e.g., child adoption) or to influence behavior, including business practices and decisions (e.g., research credits or economic development area hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they might not otherwise undertake. Federal and state laws currently do not provide a credit similar to the credit proposed by this bill.

**Board Position:**

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**Department Director****Date**

Selvi Stanislaus

1/2/08

## THIS BILL

This bill would allow a credit equal to 50% of the fair market value of uncompensated medical care provided by a physician during the taxable year to an eligible individual.

This bill would define the following terms:

- “Physician” means a physician and surgeon licensed by the Medical Board of California or the Osteopathic Medical Board of California.
- “Eligible individual” means a resident of this state who is not covered by health insurance and is a member of a household whose combined household adjusted gross income (AGI) for the taxable year is less than the federal poverty level.

This bill would allow any excess credit amount to be carried forward to succeeding years until exhausted.

## IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author’s office to resolve these and other concerns that may be identified.

If this bill were enacted in the last month of 2007, it would be operative for taxable years beginning on or after January 1, 2007. It would be difficult for the department to implement this bill because the tax form and system changes have already been made for the 2008 tax filing season.

This bill uses terms that are undefined, namely “fair market value,” “uncompensated,” “medical care,” and “health insurance.” The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of this credit.

This bill would allow a credit for the “fair market value” of uncompensated medical care. It is recommended that the bill specify how fair market value must be computed, as it could vary from region to region. Lack of clear direction in the bill could be a compliance hardship for taxpayers and result in disputes between the department and taxpayers. The author may wish to amend the bill to specify how to compute the fair market value as the amount that would have been paid through private health insurance, Medi-Cal, or Medicare.

This bill would require that an “eligible individual” have a California combined household AGI less than the federal poverty level. The federal poverty thresholds are based on total household income, not AGI. Generally, income information is confidential and, as such, it would be difficult for the physician to substantiate that an eligible individual meets the income requirement. The author may wish to amend the bill to remove the term AGI and replace it with household income<sup>1</sup> and specify how to substantiate such income and not compromise confidential information.

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<sup>1</sup> As defined in California Revenue and Taxation Code section 20504 for homeowners and renters assistance claimants.

## LEGISLATIVE HISTORY

AB 1592 (Huff et al., 2007/2008), was identical to this bill with the exception of the definition of "fair market value" that was included in AB 1592. AB 1592 failed to pass out of the Assembly Revenue and Taxation Committee.

SB 1026 (Calderon, 2007/2008) would have allowed a tax credit to qualified health care providers for the amounts paid or incurred to provide health care to certain California residents. This bill failed to pass out of the Senate Revenue and Taxation Committee.

AB 218 (Maze, 2005/2006) and AB 293 (Maze, Parra 2005/2006) would have allowed a tax credit for doctors that treat Medi-Cal beneficiaries in specified counties. Both bills failed to pass out of the Assembly Revenue and Taxation Committee.

AB 988 (Maze, 2003/2004) would have allowed a tax credit for doctors that treat Medi-Cal beneficiaries in specified counties. AB 988 failed to pass out of the first house by the constitutional deadline.

AB 2164 (Cogdill, 2001/2002) would have allowed a tax credit to medical professionals who work in rural communities. AB 2164 failed to pass out of the Assembly Revenue and Taxation Committee.

## OTHER STATES' INFORMATION

*Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York* laws do not provide a credit comparable to the credit this bill would allow. The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

## FISCAL IMPACT

The department's costs to administer this bill cannot be determined until the implementation concerns discussed above have been resolved.

## ECONOMIC IMPACT

### Revenue Estimate

This bill would result in the following revenue losses:

Revenue Impact of SBX1 8 Enactment Assumed before January 1, 2008 (\$ in Millions)			
	2007-08	2008-09	2009-10
Revenue Impact	-\$130	-\$150	-\$165

This estimate does not account for changes in employment, personal income, or gross state product that could result from this bill.

### **Revenue Discussion:**

Based on research statistics published in the journal, Health Affairs, this estimate uses the 2001, federal amount (approximately \$5 billion) of uncompensated care to estimate the uncompensated expenditures incurred by California practicing doctors and physician groups. Assuming that 9% of the federal amount would apply to California and an 8.5% growth rate per year the total for 2007 would be approximately \$750 million. Based on industry data, it is estimated that 40% of that amount ( $40\% \times \$750 \text{ million} = \$300 \text{ million}$ ) would be spent on uninsured individuals whose total household income would be less than the federal poverty level. With a credit proposed at 50%, the resulting potential amount claimed would be \$150 million ( $\$300 \text{ million} \times 50\% \text{ credit rate} = \$150 \text{ million}$ ).

It is assumed that 80% ( $\$150,000 \text{ million} \times 80\% = \$120 \text{ million}$ ) would be used due to sufficient tax liability and any excess would be carried over and used against future tax liabilities. It was assumed that physicians and physician groups can potentially deduct 10% of these same expenses under current law. Assuming a tax rate of 7% for these taxpayers results in a total offset deduction amount of \$840,000 for 2007 ( $\$150 \text{ million} \times 10\% \times 80\% \times 7\%$ ). The total revenue loss for 2007 would be \$119 million ( $\$120 \text{ million} - \$840,000$ ). The remaining expenses are carried forward as net operating losses and applied against future tax liabilities. The numbers in the table above have been adjusted to reflect revenue estimates for fiscal years.

### **LEGAL IMPACT**

To qualify for this credit, this bill would require a physician to provide medical care to a California resident. Restrictions based on residence have been found to be unconstitutional.

### **POLICY CONCERNS**

The provisions of this bill would not limit the credit to services performed in California. The credit would be allowed for uncompensated medical care whether provided inside or outside California.

This bill would allow for an unlimited carryover period. Consequently, the department would be required to retain the carryover on the tax forms indefinitely. Recent credits have been enacted with a carryover period limitation because experience shows credits typically are exhausted within eight years of being earned.

This bill lacks a sunset date. Sunset dates generally are provided to allow periodic review of the effectiveness of the credit by the Legislature.

### **LEGISLATIVE STAFF CONTACT**

Analysis prepared by  
Jennifer Bettencourt  
(916) 845-5163

[jennifer.bettencourt@ftb.ca.gov](mailto:jennifer.bettencourt@ftb.ca.gov)

Revenue estimated by  
Bagher Modjtahedi  
(916) 845-5243

[bagher.modjtahedi@ftb.ca.gov](mailto:bagher.modjtahedi@ftb.ca.gov)

Brian Putler  
Franchise Tax Board  
(916) 845-6333

[brian.putler@ftb.ca.gov](mailto:brian.putler@ftb.ca.gov)